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22 UNITED STATES DISTRICT COURT

23 DISTRICT OF ARIZONA

24 In Re Bard IVC Filters Products
25 Liability Litigation

No. MD-15-02641-PHX-DGC

26 DEBRA MULKEY,

27 Plaintiffs,

No. CV-16-00853-PHX-DGC

28 v.

29 C.R. BARD, INC., a New Jersey
30 corporation and BARD PERIPHERAL
31 VASCULAR, an Arizona corporation,

**32 NOTICE OF PLAINTIFF DEBRA
33 MULKEY'S STATUS FOR TRIAL
34 BEGINNING SEPTEMBER 18, 2018**

35 Defendants.

36 Pursuant to the Court's June 13, 2018 Minute Entry, Plaintiff Debra Mulkey provides
37 the following update on her ability to proceed with trial beginning on September 18, 2018:

1 1. Plaintiff's preference is to have her trial go forward on September 18, 2018,
2 as planned and her counsel has continued to work diligently in preparation for trial on that
3 date; however, uncertainty remains as to Plaintiff's ability to proceed with trial on that date.

4 2. Plaintiff's counsel, David DeGreeff, recently spoke with Dr. Hanif's nurse.
5 Dr. Hanif is Plaintiff's treating neurologist for her seizure-like symptoms. Her nurse passed
6 on the following from Dr. Hanif:

7 a. Plaintiff's physicians are just beginning efforts to diagnose her problem.
8 b. Currently, the plan is to do the following tests (none of which have been
9 started and ongoing issues with insurance exist):
10 i. An EEG to determine if Plaintiff is having seizures;
11 ii. Requiring Plaintiff to wear an event monitor for 7 days to ascertain
12 whether she is having heart problems;
13 iii. Tilt table testing to determine if Plaintiff is having issues with
14 sudden blood pressure changes; and
15 iv. Any other testing implicated by the results of the above.
16 c. It will be at least a month before Plaintiff's physicians have a preliminary
17 diagnosis.
18 d. It is important to understand Plaintiff's medical issues before subjecting
19 her to the stress of a 3-week trial across the country.
20 e. When a diagnosis is made, there may be additional timing issues. For
21 example, if Plaintiff is having seizures her doctors will have to work with
22 her medications over a period of time to get everything properly regulated.
23 This is also true for some of her potential heart issues

24 3. Based on the foregoing, this Court's Minute Entry and instructions during the
25 recent phone conference, and the associated lack of certainty about Plaintiff's availability
26 for trial, it is clear this bellwether needs to be moved back to a later bellwether trial setting.
27 To ensure enough time is available to resolve her health issues and to avoid a similar issue
28

1 prior to the November 2018 bellwether trial, Plaintiff's counsel requests this case be reset
2 as the fifth bellwether trial – i.e. the trial starting in the first quarter of 2019. This should
3 allow enough time to resolve all potential health concerns.

4. Without waiving the prior position set forth in Plaintiffs' motion in *limine* No.
5 1 (Doc. 9529; Order, Doc. 9881), Plaintiffs do not intend to re-urge this motion in
6 bellwether number 3, whichever case is chosen.

7 RESPECTFULLY SUBMITTED this 21st day of June, 2018.

8 GALLAGHER & KENNEDY, P.A.
9

10 By: /s/ Mark O'Connor

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CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2018 a true and correct copy of the foregoing was sent via U.S. Mail and/or Electronic Mail to:

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*Counsel for Plaintiffs will be served in accordance with the Court's Case Management Order No. 1

/s/ Jessica Gallentine